IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6026 of 1988

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG
HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SUNAV KELAVNI MANDAL - Petitioner(s)
Versus
LILABEN JASHBHAI SHUKLA (WIFE) - Respondent(s)

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Appearance :
MR KM PATEL for Petitioner(s) : 1,
None for Respondent(s) : 1, 1.2.1, 1.2.2, 1.2.3,1.2.4
RULE SERVED for Respondent(s) : 1.2.5

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

and

HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 07/09/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE R.S.GARG)

1. Mr. K.M. Patel, learned counsel for the petitioner submits that challenge to Section 17B of the Industrial Disputes Act, 1947 does no more survive in the present matter, because, the employee has left for his heavenly abode. In view of the said submission, constitutional validity of Section 17B of the Act is not required to be examined.
2. The matter on merits challenges the award made by the Labour Court, ordinarily, the petition can be filed before this Court which will have to be heard by the learned Single Judge. As the constitutional validity is withdrawn, we dismiss the writ application with liberty in favour of the petitioner to approach the learned Single Judge by filing a Special Civil Application. The question of delay in approaching the learned Single Judge may be explained by the petitioner by submitting that the present petition remained pending before the Division Bench for 18 long years. The petition is dismissed. Rule is discharged. No costs. Interim relief, if any, stands vacated.

[R.S.GARG, J.]

[D.H.WAGHELA, J.]

pirzada/-